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Application Number	10/611,765
Filing Date	July 1, 2003
First Named Inventor	Leonard R. Sokola, Sr.
Art Unit	3727
Examiner Name	Stephen J. Castellano
Attorney Docket No.	SOK-101US

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Date	September 11, 2006	Registration No.	50,379

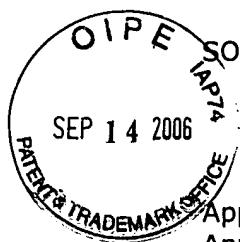
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SOK-101US

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appln. No: 10/611,765  
Appellant: Sokola  
Filed: July 1, 2003  
Title: DINNERWARE WITH ATTACHED FIGURE AND DIET REMINDER  
TC/A.U.: 3727  
Examiner: Stephen J. Castellano  
Confirmation No.: 2171  
Notice of Appeal Filed: July 20, 2006  
Docket No.: SOK-101US

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

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S I R :

Appellant hereby appeals from the decision dated April 20, 2006, rejecting claims 1-5, 7, 10-13, and 16-20, and requests consideration and reversal of the rejection of these claims.

**I. REAL PARTY IN INTEREST**

The real Party In Interest in this matter is the inventor, Leonard R. Sokola Sr.

**II. RELATED APPEALS AND INTERFERENCES**

A previous Appeal Brief was filed on June 6, 2005, and the Board reversed the Examiner on all appealed rejections. There are no other appeals or interferences related to the subject matter of this Appeal.

**III. STATUS OF CLAIMS**

Claims 1-5, 7, 10-13, and 16-20 are the only claims pending in the application, claims 6, 8, 9, 14, 15, and 21-23 having been withdrawn. Claims 1-5, 7, 10-13, and 16-20 stand rejected, and all of these rejections are appealed herewith. Claim 1 is the only independent claim. Claims 2-5, 7, 10, and 16-20 each depend directly from claim

1, and claims 11-13 each depend directly from claim 10. Hence all of claims 2-5, 7, 10-13, and 16-20 depend ultimately from claim 1.

Appellant contends that independent claim 1 is patentable over the cited prior art, and provides arguments and support for that contention in the sections provided below. Appellant further contends that dependent claims 2-5, 7, 10-13, and 16-20 are also patentable, both independently and as dependent from claim 1.

#### **IV. STATUS OF AMENDMENTS**

No amendments have been filed after the Office Action of April 20, 2006. As filed on July 1, 2003, the subject application had 23 total claims. Among those claims were two independent claims, namely, claims 1 and 23. Claims 2-10 and 14-22 each depended directly from claim 1, and claims 11-13 each depended directly from claim 10, and thus all of claims 2-22 depended ultimately from claim 1.

A first Office Action, dated March 22, 2004, objected to claims 2, 9, 14, 15, 21 and 23 with the indication that "the drawings must show every feature of the invention specified in the claims." Claims 1-8 and 10-12 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 4,863,033 to Buj, and claims 9, 14, and 16 were rejected under 35 U.S.C. § 103(a) as unpatentable over the same reference. Claim 15 was rejected under 35 U.S.C. § 103(a) as unpatentable over Buj in view of U.S. Pat. No. 79,824 to Goff *et al.*, and Claims 17 and 18 were rejected under 35 U.S.C. § 103(a) as unpatentable over Buj in view of U.S. Pat. No. Des. 373,930 to Gruneisen III (Gruneisen). Claims 13 and 19-22 were rejected under 35 U.S.C. § 103(a) as unpatentable over Buj in view of U.S. Pat. No. Des. 400,403 to Brownell. Claims 1, 10, 13 and 19-23 were rejected under 35 U.S.C. § 103(a) as unpatentable over Brownell in view of Buj and Gruneisen.

Appellant filed a Response to the first Office Action on May 20, 2004. The Response amended independent claim 23 to further distinguish the claimed invention from the cited references. In the May 20 Response, Appellant also provided detailed remarks specifying the limitations in the amended claims which are not taught, described, or suggested in the art relied on in the rejection, and explaining how and why such limitations render the claimed subject matter patentable over the cited art. Appellant also amended

FIGS. 3-5 and added new FIGS. 6 and 7 in response to the Examiner's objection, and cited specific support in the application as filed for these amendments.

A second Office Action, dated July 15, 2004, required election of one of three groups of patentably distinct species of the claimed invention. These groups were:

Group I: FIG. 1 and 2;

Group II: FIG. 3; and

Group III: FIG. 4.

No mention was made in the Office Action of FIGS. 5-7.

Appellant filed a Response to the second Office Action on August 16, 2004, electing Group III: FIG. 4 without traverse, and identifying claims 1-5, 7, 10-13 and 16-20 as readable on Group III. No amendments were filed in this Response.

A third (Final) Office Action was issued on December 8, 2004. The Office Action objected to the Response of May 20 under 35 U.S.C. § 112, asserting in regard to FIGS. 3, 4, and 6 that the shape and dimensions of the bowl shown therein are new matter and that, in FIG. 5, the location of the phrase "Don't Pig Out!" on the dish is new matter. The drawings were also objected to under 37 C.F.R. § 1.83(a), with the statement that the drawings must show every feature of the invention specified in the claims. Claims 2, 9, 14, 15, 21, and 23 were objected to with the assertion that various features of these are not shown in a drawing. The Examiner required a proposed drawing correction or corrected drawings.

The Office Action finally rejected claims 1-5, 7, and 10-12 under 35 U.S.C. § 102(b) over Buj (4,863,033). It further rejected claim 16 under 35 U.S.C. § 103(a) as unpatentable over Buj and claims 17 and 18 under § 103(a) as unpatentable over Buj in view of Gruneisen. Claims 13, 19, and 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Buj in view of Brownell. Claims 1, 10, 13, 19 and 20 were also rejected under § 103(a) as unpatentable over Brownell in view of Buj and Gruneisen.

Appellant filed a Response to the third (Final) Office Action on February 24, 2005. The Response provided further detailed remarks specifying the limitations in the amended claims which are not taught, described, or suggested in the art relied on in the rejection, and explaining how and why such limitations render the claimed subject matter patentable over the cited art. No amendments were made. The Response also detailed remarks specifying how the items alleged to be new matter were supported in the application as filed, and where the various features alleged to be missing in the Figures could be found.

An Advisory Action was issued March 11, 2005, stating that the request for reconsideration in the Response to the third Office Action had been considered but had not placed the application in condition for allowance because "Nothing in applicants remarks suggest [sic] that the shape and dimension of the bowl depicted in the drawings filed on May 24, 2004 were originally disclosed. Therefore, the examiner must conclude that this is new matter despite strenuous traversal on applicant's part." The Advisory Action was accompanied by an Interview Summary making of record a telephonic interview between the Examiner and Appellant's representative, Frank Tise, on March 21, 2005. The summary reflected the Examiner's reiteration, during the interview, that "a spoon is a pictorial representation" and that "...spoons are used to measure proper quantity [sic] of food such as by measuring the amount of sugar to put in coffee." and that therefore the spoon shown in Buj is a graphical diet reminder. No agreement was reached during the interview regarding the merits of the Examiner's arguments.

Appellant filed a Notice of Appeal, followed by an Appeal Brief dated June 6, 2005 and a supplemental Appeal Brief dated November 17, 2005, appealing all of the rejections. The Examiner issued an Examiner's Answer on July 26, 2005, to which Appellant did not respond. The Board issued a Decision on Appeal and Opinion with a mailing date of January 4, 2006, reversing all of the rejections.

A new Office Action was issued on April 20, 2006, rejecting claims 1-5, 7, 10-13, and 16, 19 and 20 under 35 U.S.C. § 103(a) over Buj (of record) in view of Strandberg (U.S. Pat. No. D443,176), Frucher (U.S. Pat. No. D241,398), and Brenkus et al. ("Brenkus", U.S. Pat. No. 6,298,488). Claims 17 and 18 were rejected under 35 U.S.C. § 103(a) over

Buj in view of Strandberg, Frucher, and Brenkus and further in view of Gruneisen (of record).

The Office Action also objected to the drawings under 37 C.F.R. § 1.83(a), with the statement that the drawings must show every feature of the invention specified in the claims. The Examiner listed specific purported deficiencies in the drawings with respect to claims 9, 14, 15, 21 and 23, and required a proposed drawing correction or corrected drawings. Claims 2, 9, 14, 15, 21, and 23 were objected to with the assertion that various features of these are not shown in a drawing, and referred back to the specific purported deficiencies in the drawings as the basis of these objections.

#### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The invention is a dinnerware article adapted to receive food. The article comprises a shallow container with an upper surface having a center, and a lower surface joined to the upper surface at an edge; a raised likeness of a creature affixed to the upper surface; and a graphical diet reminder on the upper surface. The likeness of a creature is a three-dimensional figure, for example a statuette or a raised relief figure.

The shallow container may be any commonly used dinnerware article designed for receiving food, and may for example be a saucer, a dish, a bowl, or a plate, such as a dinner, salad, or dessert plate, and may be of any width, height, and shape. (See application page 5 lines 1-6.)

The likeness may be that of any creature, but typically is of a creature that connotes obesity to remind the user of the consequences of unhealthy eating habits. (See application page 5 lines 7-11 and original FIGS. 1-5.)

The graphical diet reminder may comprise a diagram indicating a breakdown of diet according to food categories and/or may include images and/or text relating to different food categories. The food categories may be laid out according to any method of organization, for instance caloric value, fiber content, fat content, vitamin content, protein content, suggested percentages of diet, or any other criteria or combination of criteria. Thus the graphical diet reminder may be an image of a food pyramid. Instead or in addition, the graphical diet reminder may comprise numerical nutritional information, for

example in chart or table format, laying out caloric value, fiber content, and/or other data such as outlined above. The graphical diet reminder may also comprise a motivational message in text or other format, an example of which is the text message "Don't Pig Out!". (See application, paragraph spanning pages 5 and 6, and original FIGS. 1-5.)

It is contemplated that, by using the dinnerware article of this invention, the user will be prompted to consume a proper quantity and balance of foods. (See application, page 6 lines 7-9, and page 7, lines 11-13.)

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The following rejections are on appeal.

Claims 1-5, 7, 10-13, 16, 19 and 20 are rejected under 35 U.S.C. § 103(a) over Buj in view of Strandberg, Frucher, and Brenkus.

Claims 17 and 18 are rejected under 35 U.S.C. § 103(a) over Buj in view of Strandberg, Frucher, and Brenkus, and further in view of Gruneisen.

## **VII. ARGUMENT**

Appellant provides below his arguments and contentions with respect to the above grounds of objection and rejection. As a preliminary matter, Appellant notes that the Office Action objected to the drawings under 37 C.F.R. § 1.83(a), with a statement that the drawings must show every feature of the invention specified in the claims. The Examiner listed specific purported deficiencies in the drawings with respect to claims 9, 14, 15, 21 and 23, and required a proposed drawing correction or corrected drawings. Claims 2, 9, 14, 15, 21, and 23 were objected to with the assertion that various features of these are not shown in a drawing, and referred back to the enumerated purported deficiencies in the drawings as the basis of these objections. The Appellant believes that the inclusion of claim 2 in this listing was an oversight by the Examiner and is in error, since the Office Action did not specify any deficiencies in the drawings with respect to claim 2.

In light of the above, upon allowance of the rejected claims, the Examiner is hereby authorized to cancel withdrawn claims 9, 14, 15, 21, and 23 by Examiner's

Amendment, thereby obviating the objections to these claims and the objections to the drawings for purported failure to show every feature of these claims.

**A. Rejection of claims 1-5, 7, 10-13, 16, 19 and 20 under 35 U.S.C. § 103(a) over Buj in view of Strandberg, Frucher, and Brenkus is improper, because 1) there is no motivation to combine the references, and 2) there would be no reasonable expectation of success in doing so.**

Buj discloses a plate on which there is mounted a removable spoon and a fork. Buj's objective is to provide toy-like implements to encourage children to eat. She states that:

"It is an object of the invention to provide a set of eating utensils for children which encourage them to eat the food presented to them and to develop the coordinated movements necessary for proper eating."  
(emphasis added) (See Buj column 1 lines 39-42.)

Buj intends her plate to be used by very young children and provided to them by a parent who wished to "encourage the children to eat on their own." (Column 1, line 36) This is reiterated and explained in greater detail as follows:

In any case, according to the present invention, not only is there provided a visually attractive set of utensils from a child's point of view, but also a set of eating utensils that encourage children to handle them. This tendency can be properly directed by the person in charge, with little effort, in order to help develop the coordinated movements necessary for bringing the food into the child's mouth.  
(Column 2, lines 25-32, emphasis added)

The desire to teach a very young child how to eat is reiterated yet again at the conclusion of the specification as follows:



"...with the help of these tools it is possible to influence the child so that, with little effort, he or she can use the utensils as if they were the toys they represent, taking the food from the plate and bringing it to his/her mouth. This makes the feeding of reluctant children much easier and helps the child to learn the movements necessary for feeding him or herself." (Column 3 line 31 to column 4 line 2, emphasis added)

It is clear from the above passages indicate that the invention is intended to be used by children who are still learning relatively basic motor skills, i.e., very young children or toddlers.

Buj does not disclose or suggest a graphical diet reminder as recited in the present claims. In light of the very young age of the intended user, this is not surprising, because such a child is in no need of instruction as to what types of food to consume. Nor would a child so young as be unable to use a fork and spoon likely understand such instruction even if it were presented. So, a graphical diet reminder would make no sense as an addition to Buj's invention, and there would be no motivation to modify the Buj reference in this manner.

Strandberg discloses and claims an ornamental design for a top surface of a nutrition plate. There is no written disclosure, and hence no teaching regarding the purpose of the invention, who the intended user might be, or any other such details. The single drawing, Fig. 1, shows a surface with what appears to be an image of a triangularly shaped drawing similar to a food pyramid, in which cartoon images of various types of food are shown. Some of the images, such as the cow, chicken, fish, and others represent to a knowledgeable person the type of food that might be consumed, but they do not resemble food items as they might actually appear on a plate. Thus, in the absence of specific teaching to the contrary, it would appear that the plate is to be used by a person who would understand that an image of a cow represents the piece of beef that might be on his/her plate, and so forth for the other items pictured.

Such a recognition requires some level of abstraction. Similarly, a certain level of abstraction is required to recognize that items (such as the cow) at the top of the

pyramid represent foods that should be eaten in relatively small amounts for a healthy diet, whereas those at the bottom of the pyramid (vegetables, grains) represent items that should be eaten in larger proportions. Additionally, the surface of Strandberg's plate bears the words "nutrition plate" and "healthy eaters." Thus Strandberg's drawing provides several indications that the intended user is a person capable of some level of abstraction and some reading ability. Needless to say, this is not Buj's child, who has not yet mastered using a fork and spoon.

The Office Action asserts that it would have been obvious to add Strandberg's graphical diet reminder to Buj's plate "to provide education about nutrition," but Buj's child cannot reasonably be expected to understand such abstract instruction. Thus there would be no reasonable expectation of success in attempting the additional instruction purportedly to be achieved by adding Strandberg's abstract images to Buj's toddler/infant plate.

Further, Buj also desires to encourage reluctant eaters to eat. She states that

There are a large number of children who are reluctant to eat the food presented to them. Obviously, this causes problems when it comes to feeding these children and makes feeding them a slow and difficult task. Often parents have to resort to telling stories to amuse the children or employ other alternatives to offset their wholly passive attitude towards food and to get them to eat.

It is well known to use special plates, forks, cups and spoons that seek to be more attractive to the child to solve this problem. For example, brighter colors and various shapes other than the conventional ones are used. As any parent knows, these solutions usually are not very satisfactory since any interest in eating they arouse in the child, is minimal and quickly fades.

The eating utensils of the present invention provide a solution for this problem because, apart from carrying out their basic function, the utensils are real toys that enable the children to enjoy themselves while eating. Thus, on the one hand, these utensils help overcome the

problems concerning lack of appetite and, on the other hand, encourage the children to eat on their own. (See column 1, lines 15-36)

The Office Action has provided no motivation for the parent of Buj's child, whom Buj describes as being a reluctant eater, to teach the child to limit his/her diet, even if the child could understand the symbolic way in which those limitations were presented. Thus for this additional reason, the combination of Buj and Strandberg is improper.

Turning now to Frucher, that reference discloses and claims an ornamental design for a Passover Seder plate. There is no written disclosure, and hence no teaching regarding the purpose of the invention, who the intended user might be, or any other such details. The single drawing, Fig. 1, shows a surface bearing images of clumps of grapes, and six circles each of which includes within it the name of a food written in English and in Hebrew. Other than the clumps of grapes, there are no images of food. The six foods are bitter herbs, shankbone, parsley, lettuce, charoses, and egg, i.e., foods having religious symbolic meaning that are mentioned during traditional readings from the Haggadah during the Jewish feast of Passover. They are not diet reminder. Thus, in the absence of a specific teaching to the contrary, it would appear the plate is to be used by a person who would understand the religious symbolism of each of the foods whose names are written on the plate, and that this person would also be able to read the English and/or Hebrew text in order to comprehend the graphics on the plate.

The Office Action asserts that it would have been obvious to put Frucher's Seder images on Buj's toddler/infant plate "to provide education about religion as well as good nutrition." However, as noted previously, the purpose of Buj's plate is to encourage eating and to develop physical coordination, and there is no suggestion in either Buj or Frucher to add religious or nutritional information to an article designed for a very young child. Thus there would be no motivation to make the proposed combination.

Further, even if one attempted to teach Buj's child about such abstract matters, there would be no reasonable expectation of success in doing so. Buj's plate is designed for a very young child who cannot yet handle a fork and spoon, let alone read

English or Hebrew or understand religious symbolism. Thus for this reason as well, a *prima facie* case of obviousness has not been presented.

Turning finally to Brenkus, that reference discloses and claims a diet method of specifying food items and food portion volumes. The method is keyed to the use of a partially transparent dish having food compartments of specific sizes, under which dish is placed at least one menu card. The Office Action asserts that it would have been obvious to combine the teachings of Brenkus (in some unspecified way) with those of Buj "to provide education as well as proper food portions." However, as noted above, there can be no reason to provide a reluctant eater with detailed instructions about limiting his/her diet. Thus, there is no motivation to modify Buj's plate by incorporating dietary restriction information from Brenkus' plate, and a *prima facie* case of obviousness has not been presented.

Further, Brenkus is clearly oriented to an adult user, and the toddler/infant for whom Buj's plate is intended would be baffled by the complex written diet information provided by Brenkus. It is hard to see what goal might motivate anyone to put such information on Buj's plate, and even harder to imagine that there would be any reasonable expectation of success in an effort "to provide education as well as proper food portions" to a child who cannot read by presenting him with written content designed for an adult. In the absence of a reasonable expectation of success, the combination of Buj and Brenkus does not support a *prima facie* case of obviousness.

For all of the above reasons, Appellant respectfully submits that the Buj reference, in combination with Strandberg, Frucher, and Brenkus, does not render obvious any of claims 1-5, 7, 10-13, 16, 19 and 20 under 35 U.S.C. § 103(a).

**B. Rejection of claims 1-5, 7, 10-13, 16, 19 and 20 under 35 U.S.C. § 103(a) over Buj in view of Frucher is improper, because not all of the claim elements are taught.**

Appellant notes that the named foods on Frucher's plate do not constitute a "diet reminder" as recited in the present claims. The term "diet reminder" must be construed according to its use in the present specification, where its function is as follows:

"It is contemplated that, by viewing the graphical diet reminder, the user will be prompted to consume a proper quantity and balance of foods." (page 6, lines 7-9)

There is no information on Frucher's plate regarding a proper quantity and balance of foods, no even the suggestion that the foods there constitute a healthy diet in any respect. Rather, their meaning relates only to religious symbolism. Thus the combination of Buj and Frucher fails to teach at least this claim element, and a *prima facie* case of obviousness has not been presented.

**C. Rejection of claims 1-5, 7, 10-13, 16, 19 and 20 under 35 U.S.C. § 103(a) over Buj in view of Brenkus is improper, because not all of the claim elements are taught.**

The menu card, which is the only item in Brenkus that might be construed as a "graphical diet reminder," is separate from the plate and underlies it. Thus Brenkus fails to remedy Buj's deficiency of not teaching a graphical diet reminder on the upper surface of the shallow container (i.e., the plate). Not all of the claim limitations are provided by the combination of these references, and thus a *prima facie* case of obviousness has not been presented.

**D. Rejection of claim 16 Under 35 U.S.C. § 103(a) over Buj in view of Strandberg, Frucher, and Brenkus is improper, because there is no teaching of the use of a pig as the raised likeness of a creature and no motivation to modify Buj to overcome this deficiency.**

As noted above in section A., Buj does not disclose all of the limitations of claim 1, from which claim 16 depends. Specifically, Buj does not disclose a graphical diet

reminder. Additionally, she does not disclose a raised likeness of a pig as recited in claim 16. No other references are cited to remedy either of these deficiencies. The Examiner states that

"It would have been obvious to modify the type of creature resembled (such as a pig) as a matter of design choice and as a matter of little criticality since the application teaches a wide variety of different animals." (See third Office Action, page 4, first paragraph.)

Appellant submits that this statement is incorrect. The application does not teach a "wide variety of animals," but rather clearly indicates a preference that the raised figure be that of a creature (not necessarily an animal) connoting obesity:

"Typically, likeness 20 will be of a creature that connotes obesity, to remind the user of the consequences of unhealthful eating habits. Nonlimiting examples of suitable creatures include a walrus, a hippopotamus, a whale, and an imaginary creature such as for example Jabba the Hutt™. Likeness 20 may be that of an obese person. In one preferred embodiment of the invention, likeness 20 is that of a pig." (See page 5, lines 9-14.)

There is no disclosure in Buj suggesting that the dolphin figurines shown therein might connote obesity, nor is there an indication that it might be desirable to somehow connote obesity. Thus, there would be no motivation to modify the disclosure of Buj by replacing the dolphin with a pig. For this reason, and separately because Buj does not disclose or suggest a graphical diet reminder (as elaborated above in section A.), a *prima facie* case of obviousness has not been presented. Accordingly, Appellant respectfully submits that the Buj reference does not render claim 16 obvious.

**E. Rejection of claims 17 and 18 under 35 U.S.C. § 103(a) over Buj in view of Strandberg, Frucher, and Brenkus and further in view of Gruneisen is improper, because the combined claims do not disclose all of the limitations of claims 17 and 18.**

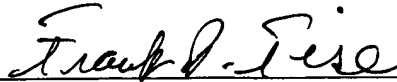
i) *Claim 17*

The deficiencies of Buj in view of Strandberg, Frucher, and Brenkus have been discussed above, and these deficiencies are not remedied by Gruneisen. The design patent to Gruneisen shows a tall drink container (not a shallow container, as recited in claim 17) with an item resembling a basketball mounted on the lip thereof. The likeness is not that of a creature, as recited in claim 17, but must only be a basketball, as indicated in the title of the patent, "Basketball Drink Container." Thus, there is no suggestion that the item mounted on the rim may be a raised likeness of a creature as recited in claim 17. Further, Gruneisen does not disclose or suggest a graphical diet reminder, and therefore does not remedy this deficiency in the combined references. For each of these several reasons, not all of the elements of claim 17 are provided by the combined references, and a *prima facie* case of obviousness has not been presented. Accordingly, Appellant respectfully submits that the combination of Buj in view of Strandberg, Frucher, Brenkus, and Gruneisen does not render claim 17 obvious.

ii) *Claim 18*

The points made under section i) above are repeated with respect to claim 18. Further, although the design patent to Gruneisen shows a hollow basketball in which the top hemisphere has been "removed for ease of illustration", there is no indication that it can be removed in fact. Rather, the equatorial line shown in each of FIGS. 1, 5 and 6 of Gruneisen appears to be a permanent molding seam holding together the two hemispheres of the basketball, as is typical for the construction of hollow plastic articles. Therefore, there is no teaching that the basketball comprises a bottom and a removable top as recited in claim 18, and the combination of Buj in view of Strandberg, Frucher, Brenkus, and Gruneisen does not render claim 18 obvious.

Respectfully submitted,



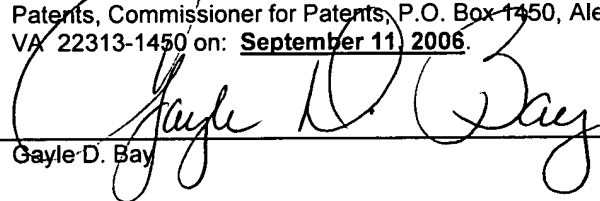
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Gayle D. Bay



**VIII. CLAIMS APPENDIX**

What is claimed

1. A dinnerware article adapted to receive food, the article comprising:  
a shallow container with an upper surface having a center, and a lower surface joined to the upper surface at an edge;  
a raised likeness of a creature affixed to the upper surface; and  
a graphical diet reminder on the upper surface.
2. The article of claim 1, wherein the shallow container comprises one of a saucer, a dish, and a bowl.
3. The article of claim 1, wherein the shallow container comprises a plate.
4. The article of claim 1, wherein the likeness is adjacent the edge.
5. The article of claim 1, wherein the likeness comprises a statuette.
7. The article of claim 1, wherein the likeness is permanently affixed to the upper surface.
10. The article of claim 1, wherein the upper surface comprises a central section and a border section adjacent and surrounding the central section, the border section extending to the edge.
11. The article of claim 10, wherein a distance from the edge to the central section is between 10% and 40% of a distance from the edge to the center.

12. The article of claim 10, wherein the likeness is affixed to the border section.
13. The article of claim 10, wherein the graphical diet reminder is on the central section.
16. The article of claim 1, wherein the likeness resembles a pig.
17. The article of claim 1, wherein the likeness comprises therein a hollow space adapted to contain at least one pill.
18. The article of claim 1, wherein the likeness is hollow and comprises a bottom and a removable top, the likeness adapted to contain at least one pill.
19. The article of claim 1, wherein the graphical diet reminder comprises a diagram indicating a breakdown of diet according to food categories.
20. The article of claim 1, wherein the graphical diet reminder comprises an image of a food pyramid.

**IX. EVIDENCE APPENDIX**

The Appellant does not rely upon evidence other than that recited in the foregoing sections of this appeal.

**X. RELATED PROCEEDINGS APPENDIX**

In a previous Appeal, the Board reversed the Examiner, who then reopened prosecution. No other proceedings other than the present Appeal have transpired relating to the subject matter thereof, and no related decisions have been rendered by a court or the Board.